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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,112	04/18/2001	Pierre Philip Barrette	12550-31	8998

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DIGEO, INC C/O STOEL RIVES LLP
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

EXAMINER	
COBANOGLU, DILEK B	
ART UNIT	PAPER NUMBER
3626	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/837,112	BARRETTE ET AL.	
	Examiner	Art Unit	
	Dilek B. Cobanoglu	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 October 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *20 and 22-45* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *20 and 22-45* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *05/21/2002*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This is in response to the amendment received on 10/10/2006. Claims 1-19 and 21 have been cancelled. Claims 25, 34, 35 have been amended, and claims 38-45 are newly added.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 35-36 are rejected under 35 U.S.C. 102(b) as being unpatentable by Clark et al. (hereinafter Clark) (U.S. Patent No. 5,974,389).

A. Claim 35 has been amended now to recite conditioning each further access to the patient data by additional entities upon a required prior access by at least one predetermined prior entity (Clark; col. 2, lines 49-57, col. 3, lines 1-6, col. 4, lines 10-30).

B. Claim 36 has not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claim 36 is rejected for the same reasons given in the previous Office Action (page number 4-5), and incorporated herein.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 20, 22-24, 25, 27, 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quy (U.S. Patent No. 6,602,191 B2) in view of Clark et al. (hereinafter Clark) (U.S. Patent No. 5,974,389).

A. Claims 20, 22-24 have not been amended, and therefore they are rejected for the same reasons set forth in the previous Office Action (pages 14-17). Applicant's arguments with respect to the aforementioned rejection is addressed below in the section entitled "Response to Argument".

B. Claims 25 is amended now to recite a method for communicating medical data, the method comprising:

i. communicating medical data directly and wirelessly to a hand-held mobile field unit from a plurality of patient medical monitoring devices, and communicating the patient monitored medical data received by the hand-held mobile field unit to a medical database via a secure network (Quy; col. 2, lines 42-49, col. 3, lines 31-39, and lines 47-54 and col. 9, line 66 to col. 10, line 10)

ii. defining a first sequence of authorized access to the patient monitored medical data, wherein at least a first user in the first sequence is required to access the patient monitored medical data before a second user in the first sequence is permitted to access the patient monitored medical data; and

iii. defining a second sequence of authorized access to a restricted portion of the patient monitored medical data.

Quy fails to expressly teach defining a first sequence of authorized access to the patient monitored medical data wherein at least a first user in the first sequence is required to access the patient monitored medical data before a second user in the first sequence is permitted to access the patient monitored medical data; and defining a second sequence of authorized access to a restricted portion of the patient monitored medical data. However, this feature is well known in the art, as evidenced by Clark.

In particular, Clark discloses defining a first sequence of authorized access to the patient monitored medical data wherein at least a first user in the first sequence is required to access the patient monitored medical data before a second user in the first sequence is permitted to access the patient monitored medical data; and defining a second sequence of authorized access to a restricted

portion of the patient monitored medical data (Clark; col. 2, lines 42-57, col. 3, lines 51-62, col.5, lines 35-42).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Clark with the motivation of selectively providing access to patient's data (Clark; col. 2, lines 42-48).

C. Claim 27 has not been amended, and Applicant does not appear to argue the separate patentability of this claim. As such, claim 27 is rejected for the same reasons given in the previous Office Action (page number 4), and incorporated herein.

D. As per newly added claim 38, Quy and Clark disclose a method in accordance with claim 25.

Quy fails to expressly teach a third user in the second sequence is required to access the patient monitored medical data before a fourth user in the second sequence is permitted to access the patient monitored medical data. However, this feature is well known in the art, as evidenced by Clark.

In particular, Clark discloses a third user in the second sequence is required to access the patient monitored medical data before a fourth user in the second sequence is permitted to access the patient monitored medical data (Clark; col. 2, lines 42-57, col. 3, lines 51-62, col.5, lines 35-42).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Clark with the motivation of selectively providing access to patient's data (Clark; col. 2, lines 42-48).

E. As per newly added claim 39, Quy and Clark disclose a method in accordance with claim 25.

Quy fails to expressly teach at least the first user in the first sequence is required to access the patient monitored medical data before a third user in the second sequence is permitted to access the patient monitored medical data. However, this feature is well known in the art, as evidenced by Clark.

In particular, Clark discloses at least the first user in the first sequence is required to access the patient monitored medical data before a third user in the second sequence is permitted to access the patient monitored medical data (Clark; col. 2, lines 42-57, col. 3, lines 51-62, col.5, lines 35-42).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Clark with the motivation of selectively providing access to patient's data (Clark; col. 2, lines 42-48).

F. As per newly added claim 40, Quy and Clark disclose a method in accordance with claim 25.

Quy fails to expressly teach the first user has access to a greater portion of the patient monitored medical data than the third user. However, this feature is well known in the art, as evidenced by Clark.

In particular, Clark discloses the first user has access to a greater portion of the patient monitored medical data than the third user (Clark; col. 2, lines 42-57, col. 3, lines 51-62, col.5, lines 35-42, col. 7, lines 43-53).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Clark with the motivation of selectively providing access to patient's data (Clark; col. 2, lines 42-48).

6. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Quy (U.S. Patent No. 6,602,191 B2) and Clark et al. (hereinafter Clark) (U.S. Patent No. 5,974,389) further in view of Ballantyne et al. (hereinafter Ballantyne) (U.S. Patent No. 5,867,821).

A. Claim 26 has not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claim 26 is rejected for the same reasons given in the previous Office Action (page number 18), and incorporated herein.

7. Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quy (U.S. Patent No. 6,602,191 B2), and Clark et al. (hereinafter Clark) (U.S.

Patent No. 5,974,389) further in view of Kambhatla et al. (hereinafter Kambhatla) (U.S. Patent No. 6,238,337 B1).

A. Claims 28-29 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 28-29 are rejected for the same reasons given in the previous Office Action (page number 5-7), and incorporated herein.

8. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Quy (U.S. Patent No. 6,602,191 B2), Clark et al. (hereinafter Clark) (U.S. Patent No. 5,974,389), Kambhatla et al. (hereinafter Kambhatla) (U.S. Patent No. 6,238,337 B1) and further in view of Wolff et al. (hereinafter Wolff) (U.S. Patent No. 5,671,282).

A. Claim 30 has not been amended, and Applicant does not appear to argue the separate patentability of this claim. As such, claim 30 is rejected for the same reasons given in the previous Office Action (page number 8-9), and incorporated herein.

9. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Quy (U.S. Patent No. 6,602,191 B2), Clark et al. (hereinafter Clark) (U.S. Patent No. 5,974,389), De La Huerga (U.S. Patent No. 6,255,951 B1) and further in view of Wolff et al. (hereinafter Wolff) (U.S. Patent No. 5,671,282).

A. Claim 31 has not been amended, and Applicant does not appear to argue the separate patentability of this claim. As such, claim 31 is rejected for the same reasons given in the previous Office Action (page number 10-11), and incorporated herein.

10. Claims 32-33, 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quy (U.S. Patent No. 6,602,191 B2), Clark et al. (hereinafter Clark) (U.S. Patent No. 5,974,389), De La Huerga (U.S. Patent No. 6,255,951 B1), Wolff et al. (hereinafter Wolff) (U.S. Patent No. 5,671,282) and further in view of Maes et al. (hereinafter Maes) (U.S. Patent No. 6,016,476).

A. Claims 32-33 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 32-33 are rejected for the same reasons given in the previous Office Action (page numbers 11-12), and incorporated herein.

B. Claim 37 has not been amended, and Applicant does not appear to argue the separate patentability of this claim. As such, claim 37 is rejected for the same reasons given in the previous Office Action (page number 19), and incorporated herein.

11. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Quy (U.S. Patent No. 6,602,191 B2), Clark et al. (hereinafter Clark) (U.S. Patent No. 5,974,389), De La Huerga (U.S. Patent No. 6,255,951 B1) and further in view of Aghili et al. (hereinafter Aghili) (U.S. Patent No. 6,289,316 B1).

A. Claim 34 has been amended now to recite a method in accordance with claim 25 wherein defining the second sequence of authorized access to the restricted portion of the patient monitored medical data comprises electronic dissemination of pathology results and medical research to selected individuals.

The obviousness of modifying the teaching of Quy to include defining the second sequence of authorized access (as taught by Clark) is as addressed above in the rejection of claim 25 and incorporated herein. The rest of the claim is rejected for the same reasons given in the previous Office Action (page number 12-13), and incorporated herein.

12. Newly added claims 41-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al. (hereinafter Clark) (U.S. Patent No. 5,974,389) in view of Quy (U.S. Patent No. 6,602,191 B2).

A. As per new claim 41, Clark discloses a system for providing secure access to medical data, the system comprising:

i. means for communicating at least a first portion of the data along a first sequence of users, wherein a first user is required to access the first portion of data before a second user in the first sequence is permitted to access the first portion of data (Clark; col. 2, lines 42-57, col. 3, lines 1-6, col. 7, lines 43-53).

Clark fails to expressly teach directly and wirelessly receiving data from a patient medical monitoring device. However, this feature is well known in the art, as evidenced by Quy.

In particular, Quy discloses directly and wirelessly receiving data from a patient medical monitoring device (Quy; abstract, col. 2, lines 55-67, col. 4, lines 31-42).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Quy with the motivation of collecting health related data (Quy; col. 3, lines 30-39).

B. As per new claim 42, Clark discloses a system in accordance with Claim 41 wherein the second user in the first sequence is required to access the first portion of data before a third user in the first sequence is permitted to access the first portion of data (Clark; col. 3, lines 1-6, lines 51-62, col. 4, lines 10-30).

C. As per new claim 43, Clark discloses a system in accordance with Claim 41 further comprising: means for communicating at least a second portion of the data along a second sequence of users, wherein the first user is required to access the second portion of data before a third user in the second sequence is permitted to access the second portion of data (Clark; col. 3, lines 1-6, lines 51-62, col. 4, lines 10-30, col. 7, lines 43-53).

D. As per new claim 44, Clark discloses a system in accordance with Claim 43 wherein the third user in the second sequence is required to access the second portion of data before a fourth user in the second sequence is permitted to access the second portion of data (Clark; col. 3, lines 1-6, lines 51-62, col. 4, lines 10-30, col. 7, lines 43-53).

E. As per new claim 45, Clark discloses a system in accordance with Claim 43 wherein the first sequence of users do not have access to the second portion of data (Clark; col. 3, lines 1-6, lines 51-62, col. 4, lines 10-30, col. 7, lines 43-53).

Response to Arguments

13. Applicant's arguments filed 10/02/2006 have been fully considered but they are not persuasive. Applicant's arguments will be addressed below in the order in which they appear.

A. In response to Applicant's argument about the references do not teach "controlling access to a medical patient's information by requiring a first user to access the information before a second user is permitted to access the information", Examiner would like to submit that Clark teaches a number of user terminals in col. 3, lines 51-62, selectively permitting the first and second caregivers, using the terminals, to access patient data in col. 3, lines 1-6. Also, in col. 9, lines 32-45, Clark teaches the second caregiver is taking over the patient chart from the first caregiver, Examiner interprets that the first user (or caregiver) accesses the patient data before the second user, since the second user is taking over the chart from the first user.

B. In response to Applicant's argument about the references do not teach "wherein the network is configured to sequentially control said electronic access with respect to a patient's data so that at least a first predetermined entity must access the patient's data before a second predetermined entity is permitted access", Examiner would like to submit that Clark teaches a sequence in col. 4, lines 10-30, that the system 100 permits any of several caregivers to enter and retrieve data for a patient's medical record. In a typical "intake" or input situation,

an administrator (first user) may input new patient information, a nurse (second user) may take patient's vital signs observed during an office visit, a doctor (third user) may enter the results of the examination, and after an office visit, an insurance administrator (forth user) may process insurance information pertaining to the visit. Examiner considers that this is a sequentially control for access, since each process should occur before the following process.

C. In response to Applicant's argument about the references do not teach "defining a first sequence of authorized access to the patient monitored medical data, wherein at least a first user in the first sequence is required to access the patient monitored medical data before a second user in the first sequence is permitted to access the patient monitored medical data; and defining a second sequence of authorized access to a restricted portion of the patient monitored medical data", Examiner respectfully submits that as explained above, Clark teaches a sequence of authorized access to the patient data. Also, Clark teaches caregiver or users are authorized to review particular portions of the patient's record in col. 7, lines 43-53.

D. In response to Applicant's argument about the references do not teach "conditioning each further access to the patient data by additional entities upon a required prior access by at least one predetermined prior entity", Examiner respectfully submits that Clark teaches in col. 3, lines 1-6 that selectively permitting the first and second caregivers, or users, using the terminals, to access patient data, and in col. 4, lines 10-30 that each authorized user enter

and retrieve the patient data, and Examiner interprets that each process follows the next one and at least one predetermined prior entity needed by a prior access.

Conclusion

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

15. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dilek B. Cobanoglu whose telephone number is 571-272-8295. The examiner can normally be reached on 8-4:30.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DBC
Art Unit 3626
12/15/2006

ALEXANDER KALINOWSKI
SUPERVISORY PATENT EXAMINER